

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ROBERT DEVEREAUX, Derivatively On  
Behalf Of BAKKT HOLDINGS, INC. (F/K/A  
VPC IMPACT ACQUISITION HOLDINGS),

Plaintiff,

VS.

GAVIN MICHAEL, DAVID CLIFTON, SEAN COLLINS, KRISTYN COOK, MICHELLE GOLDBERG, RICHARD LUMB, ANDY MAIN, GORDON WATSON, DE'ANA DOW AND JILL SIMEONE,

Defendants,

-and-

BAKKT HOLDINGS, INC. (F/K/A VPC  
IMPACT ACQUISITION HOLDINGS),

**Nominal Defendant.**

Case No.: 23-cv-01329

## STIPULATION AND [PROPOSED] ORDER TO DISMISS ACTION

Pursuant to Rules 23.1(c) and 41(a) of the Federal Rules of Civil Procedure, plaintiff Robert Devereaux (“Plaintiff”), Nominal Defendant Bakkt Holdings, Inc. F/K/A VPC Impact Acquisition Holdings (“Bakkt”), and Individual Defendants Gavin Michael, David Clifton, Sean Collins, Kristyn Cook, Michelle Goldberg, Richard Lumb, Andy Main, Gordon Watson, De'ana Dow and Jill Simeone (“Individual Defendants,” and with Bakkt, “Defendants,” and collectively with Plaintiff, the “Parties”), by and through their undersigned counsel, respectfully request that the

Court enter an Order granting this stipulation to voluntarily dismiss this putative shareholder derivative action (the “Action”). In support thereof, the Parties state as follows:

WHEREAS, on February 20, 2023, Plaintiff filed a Complaint in the above-captioned action (the “Action”).

WHEREAS, the undersigned counsel appeared for Bakkt, as well as for Individual Defendants.

WHEREAS, undersigned counsel for Defendants agreed to, and did, accept service of the Summons and Complaint on behalf of all Defendants as of May 15, 2023.

WHEREAS, on June 13, 2023, Defendants filed a pre-motion letter seeking leave to move to dismiss the Complaint.

WHEREAS, on June 20, 2023, Plaintiff filed a pre-motion letter for extension of time to file an Amended Complaint in response to Defendants’ pre-motion letter.

WHEREAS, on June 21, 2023, Judge Amon granted Plaintiff’s Motion for Extension of Time to File an Amended Complaint and dismissed, as moot, Defendants’ request for a pre-motion conference.

WHEREAS, the Parties have now met and conferred as to the reasons advanced by Defendants for dismissal of the Complaint in their pre-motion letter dated June 13, 2023, and the Parties have agreed that a voluntary dismissal of the Complaint is appropriate.

WHEREAS, the Parties have also met and conferred and submit that notice to shareholders of the dismissal of the Action is unnecessary because (i) the dismissal is without prejudice; (ii) there has been no settlement or compromise between the Parties; (iii) there has been no collusion among the Parties; and (iv) neither Plaintiff nor his counsel has received or will receive any consideration from Defendants for the dismissal; and

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED among the Parties, through their respective counsel, subject to Court approval, as follows:

1. The Action shall be dismissed in its entirety.
2. For the reasons stated above, notice to Bakkt shareholders is unnecessary.
3. The Parties shall each bear their own fees, costs, and expenses in connection with the Action.

Dated: July 20, 2023

**GAINEY McKENNA & EGLESTON**

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*Attorneys for Defendants Gavin Michael, David Clifton, Sean Collins, Kristyn Cook, Michelle Goldberg, Richard Lumb, Andy Main, Gordon Watson, De'ana Dow and Jill Simeone*

**IT IS SO ORDERED:**

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United States District Judge